

## **Title 23: TRANSPORTATION**

### **Chapter 203: LAYING OUT, ALTERING OR DISCONTINUING HIGHWAYS**

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**Maine Revised Statutes**  
**Title 23: TRANSPORTATION**  
**Chapter 203: LAYING OUT, ALTERING OR DISCONTINUING HIGHWAYS**

**§2051. POWER OF COMMISSIONERS**

**1. Layout, maintenance and discontinuance of roads in unorganized areas.** County commissioners may lay out, alter, close for maintenance or discontinue highways within the unorganized areas of their counties and grade hills in such a highway. The county commissioners may close a county road for maintenance and preserve the right-of-way for the use of abutting landowners, any others using that way for access to their property and public utilities and corporations with facilities legally located within that way, at their own risk. At a regular session of the commissioners, responsible persons may present a written petition describing a way and stating that the location, alteration, grading or closing for maintenance or discontinuance of that way, in whole or in part, or an alternative action, is desired. The commissioners may act upon the petition, conforming substantially to the description without adhering strictly to its bounds.

[ 1997, c. 327, §1 (NEW) .]

**2. Closing roads in unorganized areas for the winter.** The county commissioners may close any county road in the unorganized areas of their county under the same conditions and following the same procedure established in section 2953, subsections 1 to 4 for the closure of roads in municipalities by the municipal officers, except that the county commissioners approve the order closing a road and may annul, alter or modify any such order. A copy of the order must be filed with the county clerk or county administrator. Any person may appeal from a decision of the county commissioners to close a county road for the winter in the same manner as provided in Title 17, section 2852.

[ 1997, c. 327, §1 (NEW) .]

SECTION HISTORY

1965, c. 168, (AMD). 1975, c. 711, §1 (AMD). 1997, c. 327, §1 (RPR).

**§2052. NOTICE**

Being satisfied that the petitioners are responsible and that an inquiry into the merits is expedient, the county commissioners shall cause 30 days' notice to be given of the time and place of their meeting by posting copies of the petition, with their order thereon, in 3 public places in each town in which any part of the way is, by serving one on the Department of Transportation and serving one on the clerks of such towns and publishing it in some newspaper, if any, in the county. The fact that notice has been so given, being proved and entered of record, shall be sufficient for all interested, and evidence thereof. [1971, c. 593, §22 (AMD) .]

SECTION HISTORY

1971, c. 593, §22 (AMD).

**§2053. COSTS**

When their decision is against the prayer of the petitioners, the county commissioners shall order them to pay to the treasurer of the county, at a time fixed, all expenses incurred on account of it, and if they are not then paid, they shall issue a warrant of distress against the petitioners therefor.

**§2054. PROCEEDINGS; RETURN; DURABLE MONUMENTS ERECTED**

The county commissioners shall meet at the time and place appointed and view the way, and there, or at a place in the vicinity, hear the parties interested. If they judge the way to be of common convenience and necessity or that any existing way shall be altered, graded or discontinued, they shall proceed to perform the duties required; make a correct return of their doings, signed by them, accompanied by an accurate plan of the way, and state in their return when it is to be done the names of the persons to whom damages are allowed, the amount allowed to each and when to be paid. When the way has been finally established and open to travel, they shall cause durable monuments to be erected at the angles thereof.

**§2055. RETURN FILED; APPEAL**

The return of the commissioners, made at their next regular statute session after the hearing provided for in section 2054, shall be placed on file and remain in the custody of their clerk for inspection without record. The case shall be continued to their next regular term of record, and at any time on or before the 3rd day thereof, if no appeal from the location be taken, all persons aggrieved by their estimate of damages shall file their notice of appeal. If no such notice is then presented or pending, the proceedings shall be closed, recorded and become effectual; all claims for damages not allowed by them be forever barred; and all damages awarded under sections 2051 to 2061, 2101, 2151 and 2152 paid out of the county treasury except as provided in section 2101. If an appeal from the location be taken in accordance with section 2063, then notice of appeal on damages may be filed with the clerk of the county commissioners within 60 days after the final decision of the appellate court in favor of such way as has been certified to him, to the Superior Court in the county where the land is situated, which court shall determine the same in the same manner as is provided in section 2058, when no appeal on location is taken.

**§2056. DAMAGES; INCREASE**

When a notice of appeal for increase of damages is presented within the time allowed, the case shall be further continued until a final decision respecting damages is made. If the county commissioners then are of opinion that their proceedings, or any part thereof, ought not to take effect, subject to such damages as have been assessed, they shall enter a judgment that the prayer of the petitioners or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county; or if of opinion that such increase of damages should prevent a confirmation of a part or parts only of their proceedings, they shall designate such part or parts, and enter judgment accordingly; and the whole proceedings shall be recorded and become effectual. This section shall not apply when a location has been determined by a committee of the Superior Court upon appeal from the decision of the county commissioners thereon. In such case, proceedings regarding the location shall become effectual as if no appeal for increase of damages had been taken.

**§2057. -- ESTIMATION AND AWARD**

If any person's property is damaged by laying out, altering or discontinuing a county highway, the county commissioners shall estimate the amount, and in their return state the share of each separately. Damages shall be determined as if the land were taken for highway purposes under chapter 3. Damages shall be allowed to the owners of reversions and remainders and to tenants for life and for years in proportion to their interests in the estate taken. Said commissioners shall not order such damages to be paid, nor shall any right thereto accrue to the claimant, until the land over which the highway or alteration is located has been entered upon and possession taken for the purpose of construction or use. [1975, c. 711, §§ 2, 3 (AMD).]

**SECTION HISTORY**

1975, c. 431, §10 (AMD). 1975, c. 711, §§2,3 (AMD).

**§2058. -- APPEALS**

Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time within 30 days after the commissioners' return is made, to the Superior Court, in the county where the land is situated, which court shall determine

the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and shall include in the complaint a statement setting forth substantially the facts, upon which the case shall be tried like other cases. The clerk shall certify the final judgment of the court to the county commissioners, who shall enter the same of record and order the damages therein recovered to be paid as provided in section 2057. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party, said claimant fails to recover a greater sum as damages than was allowed to him by the commissioners. The committee shall be allowed a reasonable compensation for their services to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts.

## **§2059. REMOVING GROWTH AND OPENING WAY**

The owners of land taken under sections 2051 to 2060 shall be allowed not exceeding one year after the proceedings regarding the location are finally closed to take off timber, wood or any erection thereon. A time not exceeding 2 years shall be allowed for making and opening the way.

## **§2060. DISCONTINUANCE WHERE NEW STATE HIGHWAY**

**1. General procedures.** When the Department of Transportation has constructed a highway over substantially the same route as that of a county or town way and has recorded the plans of that highway in the registry of deeds, the county commissioners or municipal officers may, on their own motion, after notice and hearing, proceed to alter or discontinue the portion of that way not within the limits of the highway. The county commissioners or municipal officers shall give notice and proceed as provided in this chapter or chapter 304, as applicable, including serving any public utility having facilities located in that portion to be discontinued. Notice to abutters must include notice that all or a portion of the discontinued roadway may pass to the abutters unless an exception in the plans and order of discontinuance is requested. Any aggrieved person may appeal as provided in the applicable chapter. The plans prepared by the department and recorded in the registry of deeds must be referred to in describing those portions of the county or town way to be discontinued. The department shall prepare the description of the discontinuance order upon the request of the county commissioners or municipal officers.

[ 1999, c. 188, §2 (NEW) . ]

**2. Effect and exceptions.** Upon discontinuance, all interests of the county or municipality pass to the abutting property owners to the center of the way, including any public easement, in accordance with section 3026. When the Department of Transportation is an abutting owner, then the interests in the way pass to the property owner opposite the department's ownership in accordance with a plan showing the right-of-way line established for the new highway location by the department. The plan must be referenced in the order of discontinuance.

[ 1999, c. 188, §2 (NEW) . ]

### **SECTION HISTORY**

1971, c. 593, §22 (AMD). 1975, c. 711, §4 (AMD). 1999, c. 188, §2 (RPR) .

## **§2061. DISCONTINUANCE BEFORE DAMAGES PAID; PROCEEDINGS**

When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order of payment, and estimate the damages actually sustained and order them paid. Any person aggrieved may have them assessed by a committee or jury as provided.

## **§2062. SAME PETITION FOR TOWNS, PLANTATIONS OR OUTSIDE LANDS; APPEALS**

*(REPEALED)*

### SECTION HISTORY

1975, c. 711, §5 (RP).

## **§2063. HEARINGS; APPEALS; STAY**

Parties interested may appear, jointly or severally, at the time of hearing before the commissioners on a petition for laying out, altering, grading or discontinuing a highway. Any such party may appeal from their decision thereon within 30 days after it has been placed on file to the Superior Court in said county, which appeal may be prosecuted by him or by any other party who so appeared. All further proceedings before the commissioners shall be stayed until a decision is made in the appellate court.

## **§2064. PROCEEDINGS ON APPEAL**

If no person appears to prosecute the appeal provided for in section 2063, the judgment of the commissioners may be affirmed. If the appellant appears, the court may appoint a committee of 3 disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested, the court may appoint some suitable person in his place. They shall give such notice as the court has ordered, view the route, hear the parties and make their report to the court within 60 days or such further time as the court allows after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners.

## **§2065. JUDGMENT ON APPEAL**

If the judgment of the commissioners in favor of laying out, grading or altering a way, as prayed for, is wholly reversed on appeal, they shall proceed no further. In all cases when the judgment of the commissioners is reversed on appeal, no petition praying substantially for the same thing shall be entertained by them for 2 years thereafter. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court. In all cases they shall carry into full effect the judgment of the appellate court in the same manner as if made by themselves. The party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The committee provided for in section 2064 shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. The costs allowed the prevailing party and the fees of the committee shall be collected as provided in section 2053. This section shall not apply to any case where the judgment has been reversed on account of informality in the proceedings.

## **§2066. COMMITTEE SWORN**

All such committees provided for in section 2064, whether agreed on or appointed on appeal from the county commissioners, may be sworn at any time before viewing the route and hearing the parties.

## **§2067. PATHS TO GREAT PONDS IN UNORGANIZED TERRITORY**

The county commissioners of any county may lay out, alter or discontinue paths or trails, for pedestrian use only, in the unorganized territory of the county which will provide a right of access to great ponds, provided a request therefor is made by petition signed by not less than 40 residents of said county. Such trails or paths shall not exceed 10 feet in width or one mile in length. Sections 2051 to 2059, where not inconsistent with this section, shall apply to the proceedings under this section. [1965, c. 96, (NEW).]

### SECTION HISTORY

1965, c. 96, (NEW).

**§2068. LIMITED-USER HIGHWAYS****(REPEALED)**

## SECTION HISTORY

1967, c. 240, (NEW). 1969, c. 313, (AMD). 1971, c. 593, §22 (AMD).  
1973, c. 20, (RP).

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